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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

14	MICHAEL V. NICKERSON,	No. 5:20-cv-06326-EJD (PR)
15	Plaintiff,	DECLARATION OF ZEWUGE BERHAN DESTA IN SUPPORT OF MOTION TO DISMISS AND FOR SUMMARY JUDGMENT
16	v.	
17		
18	RON BROOMFIELD, et al.,	Judge: The Honorable Edward J. Davila
19	Defendants.	Trial Date: Not Set
		Action Filed: September 9, 2020

I, Zewugeberhan Desta, declare as follows:

21 1. I am an attorney admitted to practice before the courts of the State of California and
22 before this Court. I am employed by the California Attorney General's Office as a Deputy
23 Attorney General in the Correctional Law Section. I represent Defendants Allison, Broomfield,
24 and Clark. I am competent to testify to the matters set forth in this declaration and, if called
25 upon by this Court, would do so. I submit this declaration in support of Defendants' Motion to
26 Dismiss and for Summary Judgment (exhaustion).

1 2. Attached as **Exhibit A** is a true and correct copy of the court's Order Appointing a
2 Receiver in the matter of *Plata v. Newsom*, Case No. 01-CV-01351-JST, ECF No. 473 (N.D. Cal.,
3 February 14, 2006).

4 3. Attached as **Exhibit B** is a true and correct copy of the United States Centers for
5 Disease Control and Prevention's *Interim Guidance on Management of Coronavirus Disease*
6 *2019 (COVID-19) in Correctional and Detention Facilities*, published at
7 [10 4. Attached as **Exhibit C** is a true and correct copy of CCHCS' Guidelines for
11 Achieving and Maintaining Social Distancing in California Prisons, issued by Receiver J. Clark
12 Kelso on April 10, 2020. These guidelines are extensively discussed in *Plata v. Newsom*, 445 F.
13 Supp. 3d 557, 565-66 \(N.D. Cal. Apr. 17, 2020\).](http://web.archive.org/web/20200527142847/https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html#verbal-screening as it existed on December 22, 2021.</p></div><div data-bbox=)

14 5. Attached as **Exhibit D** is a true and correct copy of CCHCS' Guidelines for
15 Achieving and Maintaining Social Distancing in California Prisons, issued by Receiver J. Clark
16 Kelso on April 12, 2020. These guidelines are extensively discussed in *Plata v. Newsom*, 445 F.
17 Supp. 3d at 565-66.

18 6. Attached as **Exhibit E** is a true and correct copy of excerpts from a certified
19 transcript of the video recording of California Senate Public Safety Committee July 1, 2020,
20 Senate Hearing on COVID-19 in California State Prisons, published at
21 <https://www.senate.ca.gov/media/senate-public-safety-committee-20200701/video> as it existed on
22 December 22, 2021.

23 7. Attached as **Exhibit F** is a true and correct copy of the Notice of Filing of Receiver's
24 Forty-Fifth Tri-Annual Report and Tri-Annual Report in the matter of *Plata v. Newsom*, No. 01-
25 CV-01351-JST, ECF No. 3457 (N.D. Cal. Oct 1, 2020).

26 8. Attached as **Exhibit G** is a true and correct copy of excerpts from the parties' Joint
27 Case Management Conference Statement in the matter of *Plata v. Newsom*, No. 01-CV-01351-
28 JST, ECF No. 3328 (N.D. Cal. May 20, 2020).

1 9. Attached as **Exhibit H** is a true and correct copy of excerpts from the Reporter's
2 Transcript of Telephonic Proceedings in the matter of *Plata v. Newsom*, No. 01-CV-01351-JST,
3 ECF No. 3334 (N.D. Cal. May 21, 2020).

4 10. Attached as **Exhibit I** is a true and correct copy of excerpts from the parties' Joint
5 Case Management Conference Statement in the matter of *Plata v. Newsom*, No. 01-CV-01351-
6 JST, ECF No. 3332 (N.D. Cal. May 27, 2020).

7 11. Attached as **Exhibit J** is a true and correct copy of excerpts from the parties' Joint
8 Case Management Conference Statement in the matter of *Plata v. Newsom*, No. 01-CV-01351-
9 JST, ECF No. 3345 (N.D. Cal. June 8, 2020).

10 12. Attached as **Exhibit K** is a true and correct copy of excerpts from the parties' Joint
11 Case Management Conference Statement in the matter of *Plata v. Newsom*, No. 01-CV-01351-
12 JST, ECF No. 3356 (N.D. Cal. June 18, 2020).

13 13. Attached as **Exhibit L** is a true and correct copy of the California Office of the
14 Inspector General's *COVID-19 Review Series, Part Three*, published at
15 <https://www.oig.ca.gov/wp-content/uploads/2021/02/OIG-COVID-19-Review-Series-Part-3---Transfer-of-Patients-from-CIM.pdf> as it existed on December 22, 2021.

17 14. Attached as **Exhibit M** is a true and correct copy of the U.S. Department of Health
18 and Human Services' Office of General Counsel's Advisory Opinion 20-04 on the Public
19 Readiness and Emergency Preparedness Act and the Secretary's Declaration Under the Act
20 October 22, 2020, as Modified on October 23, 2020, published at
21 <https://www.hhs.gov/guidance/document/advisory-opinion-20-04-public-readiness-and-emergency-preparedness-act-and-secretarys> as it existed on December 22, 2021.

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1 15. Attached as **Exhibit N** is a true and correct copy of the United States Centers for
2 Disease Control and Prevention's publication titled *How COVID-19 Spreads*, published at
3 <https://web.archive.org/web/20200527234600/https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> as it existed on December 22, 2021.
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5 I declare under penalty of perjury that the foregoing is true and correct and that this
6 declaration was executed on January 5, 2022, in Oakland, California.

/s/ Zewugeberhan Desta
Zewugeberhan Desta
Deputy Attorney General

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